

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

May 21, 2003

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and D.Nolan,
Deputy Clerk.

Each of the following:

B155624 Foerstel v. Jeffrey
B157540 LaBrecque v. Gott
B159574 DCFS v. Annette C.
B160273 DCFS v. Veronica D.
B160570 DCFS v. Doretha B.
B161719 DCFS v. Betty J.
B162178 DCFS v. Lynette C. et al.
B162344 DCFS v. Helena N.
B165427 Jesus C. v. SCLA (DCFS, rpi)

Argument waived, cause submitted.

B158550 The People
 v.
 Ranger Insurance Company

Merits:

Argued by Phyllis C. Asayama, Deputy District Attorney for respondent
and by E. Alan Nunez for appellant. Cause submitted.

B159805 AB Cellular-LA et al.,
 v.
 City of Los Angeles

Merits:

Argued by Steven A. Hirsch for appellants and by Valentin Dinu, Deputy
City Attorney for respondent. Cause submitted.

Mallano, J. leaves the bench.

DIVISION ONE (Continued)

B161200 Gail Allen, et al.
 v.
 Wallace B. Hansen, et al.

Merits:
Argued by Ken Nathanson for appellants and by Robert A. Olson for
respondents. Cause submitted.

B159376 Mary Dousette, et al.
 v.
 James and Lynn Minidis

Merits:
Argued by Craig A. Huber for appellants and by Jonathan M. Levitan for
respondents. Cause submitted.

Mallano, J. returns to the bench.

Vogel, J. leaves the bench

B156913 Kelikupa Tuione
 v.
 Roger O'Neal

Merits:
Argued by Thomas W. Ely for appellant and by Wendy Rossi for
respondent. Cause submitted.

Vogel, J. returns to the bench.

Mallano, J. leaves the bench.

DIVISION ONE (Continued)

B164256 Matthew Fletcher
 v.
 Superior Court, Los Angeles County
 (The People, r.p.i.)

Merits:

Argued by Matthew Fletcher petitioner in propria persona and by Mark S. Borrell for respondent. Cause submitted.

Mallano, J. returns to the bench.

B160509 Vladimir Yovev
 v.
 City of Los Angeles

Merits:

Argued by Vladimir Yovev appellant in propria persona. Katherine J. Hamilton, deputy city attorney for respondent waived oral argument. Cause submitted.

Vogel, J. leaves the bench.

B163779 Mabel J.G.
 v.
 Steen Michael N.
 In re Guardianship of Megan N.

Merits:

Argued by Thomas Paine Dunlap for appellant and by Ephraim O. Obi for respondent. Cause submitted.

Vogel, J. returns to the bench.

Spencer, P.J. leaves the bench.

DIVISION ONE (Continued)

B159303 Daniel Elrod
v.
Costco Wholesale Corporation, et al.

Merits:
Argued by Terran Steinhart for appellant and by William V. Whelan for respondents. Cause submitted.

Court recessed at 11:35.

Court reconvened at 1:30 p.m.

Present: Spencer, P.J., Vogel (Miriam A.), J., Mallano, J. and D. Nolan, Deputy Clerk.

B155804 Barry B. Kaufman, et al.
v.
ACS Systems. Inc., et al.

Merits:
Argued by Scott Zimmerman and Nicolas Connon for appellants, by Alisa Klein, deputy United States attorney general for amicus, by David B. Felsenthal for respondent Fax.com. and by Daniel J. Kolodziej for respondent DataMart. Cause submitted.

Court adjourned.

B160429 People (Not for Publication)
v.
Arellano

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Mallano, J.

DIVISION ONE (Continued)

B161719 Los Angeles County, D.C.S. (Not for Publication)
v.
Betty J.

The order terminating Betty's parental rights over Nicholas is vacated, and the cause is remanded to the dependency court with directions to order the Department to comply with the ICWA; if no response is received, or if the response is negative, the trial court shall reinstate the termination order and it shall thereupon be final (along with all other orders addressed on this appeal). If any tribe determines that Nicholas is an Indian child within the meaning of the ICWA, the dependency court shall conduct a new section 366.26 hearing and make such further orders as are necessary and appropriate.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Mallano, J.

B161140 People (Not for Publication)
v.
Andrews

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Mallano, J.

B158111 Parvinzian (Not for Publication)
v.
Parvinzian

The judgment and post-judgment order are affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

DIVISION ONE (Continued)

B160061 Farmer Bros. Co. (Certified for Publication)

v.

Franchise Tax Board

The judgment is affirmed.

Mallano, J.

We concur: Ortega, Acting P.J.
 Vogel (Miriam A.), J.

B158575 People

v.

Broyles

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION TWO

B156683 Brown (Not for Publication)

v.

Department of Corrections, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Doi Todd, J.

We concur: Boren, P.J.
 Nott, J.

B159629 Potts (Not for Publication)

v.

Childnet Youth and Family Services

The judgment entered in favor of Childnet is affirmed. Costs are awarded to Childnet.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

May 21, 2003 (Continued)

DIVISION TWO (Continued)

B158309 People (Not for Publication)
v.
Paredes

The judgment is affirmed.

Doi Todd, J.

We concur: Nott, Acting P.J.
Ashmann-Gerst, J.

[illegible]

The order appealed from is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

B160865 Los Angeles County, D.C.S. (Not for Publication)
v.
Norma G.

In re: Jeanette S.

The juvenile court's order denying Norma's section 388 petition is affirmed.

Doi Todd, J.

We concur: Nott, Acting P.J.
 Ashmann-Gerst, J.

DIVISION FOUR

B156626 Tower Insurance Associates, Inc., et al. (Not for Publication)
v.
McAnany, et al.

The order granting a new trial is reversed as to the cause of action for unfair business practices; it is affirmed as to all other causes of action. At the conclusion of the further proceedings on these remaining causes of action, the trial court is directed to enter judgment in favor of appellants on the unfair business practices cause of action in accordance with the jury's finding contained in the special verdict dated October 11, 2001. The parties are to bear their own costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

B157761 People (Not for Publication)
v.
Jeter

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

B153843 People (Not for Publication)
v.
Lopez

The judgment is modified to strike one of the prior prison term enhancements under section 667.5, subdivision (b), and the judgment is affirmed as modified.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

DIVISION FIVE

B158320 The People
 v.
 Tyrone James

The judgment is affirmed.

Turner, P.J.

We Concur: Grignon, J.
 Mosk, J.

B158610 Anheuser-Bush Inc. (Not for Publication)
 v.
 Empire Indemnity Insurance Company

The judgment is affirmed. Respondent(s) to recover costs.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Curry, J.

B163159 People (Not for Publication)
 v.
 Ruiz

For the foregoing reasons, the judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

DIVISION FOUR (Continued)

B152594 People (Not for Publication)
v.
Sandoval

The orders imposing an excess value enhancement on count 1; staying the remaining six excess value enhancements; imposing consecutive sentences on counts 3 and 7; and imposing \$304,976 as direct restitution are reversed. The matter is remanded with directions to the trial court to: (1) exercise its discretion whether to impose a single excess value enhancement on appellant's sentence as a whole rather than on any particular count, and if it elects not to do so, to strike the underlying excess value finding; (2) strike the remaining six excess value findings; (3) stay appellant's sentences on counts 3 and 7; and (4) hold a new hearing on direct restitution and enter an order for direct restitution consistent with the views expressed in this opinion. In all other respects, we affirm the judgment.

Curry, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

DIVISION SIX

B158902 People (Not for Publication)
v.
De La Torre

We reverse that portion of the judgment imposing two one-year terms under section 667.5, subdivision (b), based on appellant's prior convictions for third degree burglary in Arizona. We remand this case to allow the prosecution 60 days in which to retry appellant on the two prior Arizona burglary convictions. (§ 1382, subd. (2).) In all other respects, the judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

May 21, 2003 (Continued)

DIVISION SEVEN

B159031 Systems Brokerage, Inc. (Not for Publication)
v.
Petere Carroll, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Perluss, P.J.

We concur: Johnson, J.
 Woods, J.

B157743/ People (Not for Publication)
B164163 v.
Yuriar

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Perluss, P.J.

We concur: Johnson, J.
 Woods, J.

B155066 Hill, et al.
v.
Columbia Tristar Television, Inc., et al.

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION EIGHT

B156162 Gunawan, (Not for Publication)
v.
Statewide Auto Insurance Brokers

The orders of dismissal of the second cause of action for fraud and third cause of action for intentional tort are affirmed. The order dismissing the first cause of action for breach of contract is reversed. Upon remand, the trial court is instructed to allow Gunawan to file an amended complaint alleging a cause of action for breach of contract. Gunawan shall recover his costs on appeal.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B157576 People (Not for Publication)
v.
Barcelo

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B161623 People
v.
Stallworth

Filed order denying petition for rehearing.